

Executive Summary – Enforcement Matter – Case No. 46889

Sunny Flea Market, Inc.

RN102321312

Docket No. 2013-0978-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Sunny Flea Market, 8705 Airline Drive, Houston, Harris County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 13, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,041

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,041

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 46889

Sunny Flea Market, Inc.

RN102321312

Docket No. 2013-0978-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 4, 2013

Date(s) of NOE(s): March 27, 2013

Violation Information

Failed to collect routine distribution water samples for coliform analysis and failed to provide public notice of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By May 1, 2013, Respondent submitted the public notice of the failure to collect routine distribution water samples for coliform analysis for the month of November 2012.

Technical Requirements:

The Order will require Respondent to:

a. Within 30 days:

i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility; and

ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.

b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.i.

c. Within 225 days, submit written certification demonstrating compliance with Ordering Provision a.ii.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 46889

Sunny Flea Market, Inc.

RN102321312

Docket No. 2013-0978-PWS-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jacquelyn Green, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-2587; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Jackrin Leeburajin, President, Sunny Flea Market, Inc., 8906 Shoreview
Lane, Humble, Texas 77346

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-May-2013	Screening	13-May-2013	EPA Due	31-Mar-2013
	PCW	16-May-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Sunny Flea Market, Inc.				
Reg. Ent. Ref. No.	RN102321312				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	46889	No. of Violations	1
Docket No.	2013-0978-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jacquelyn Green
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	15.0% Enhancement	Subtotals 2, 3, & 7	\$75
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Notes Enhancement for three NOV's with same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$54
Approx. Cost of Compliance \$50
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$575
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OTHER FACTORS AS JUSTICE MAY REQUIRE	9.4%	Adjustment	\$54
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided cost associated with the violation.

Final Penalty Amount	\$629
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$629
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$629
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Screening Date 13-May-2013

Docket No. 2013-0978-PWS-E

PCW

Respondent Sunny Flea Market, Inc.

Policy Revision 2 (September 2002)

Case ID No. 46889

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102321312

Media [Statute] Public Water Supply

Enf. Coordinator Jacquelyn Green

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 15%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for three NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 15%

Screening Date 13-May-2013

Docket No. 2013-0978-PWS-E

PCW

Respondent Sunny Flea Market, Inc.

Policy Revision 2 (September 2002)

Case ID No. 46889

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102321312

Media [Statute] Public Water Supply

Enf. Coordinator Jacquelyn Green

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(A)(i) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of February and August 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to perform routine coliform monitoring could result in persons served by the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 59 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$500

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$54

Violation Final Penalty Total \$629

This violation Final Assessed Penalty (adjusted for limits) \$629

Economic Benefit Worksheet

Respondent Sunny Flea Market, Inc.

Case ID No. 46889

Reg. Ent. Reference No. RN102321312

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Delayed cost for violation captured in the Economic Benefit of violation 1 of the Rev. 3 PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$50	1-Feb-2011	31-Aug-2011	1.50	\$4	\$50	\$54
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated avoided cost to collect a total of two routine coliform samples (\$25 per sample), calculated for the months in which no samples were collected.

Approx. Cost of Compliance

\$50

TOTAL

\$54



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES Assigned 13-May-2013
PCW 16-May-2013 Screening 13-May-2013 EPA Due 31-Mar-2013

RESPONDENT/FACILITY INFORMATION

Respondent Sunny Flea Market, Inc.
Reg. Ent. Ref. No. RN102321312
Facility/Site Region 12-Houston Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 46889 No. of Violations 1
Docket No. 2013-0978-PWS-E Order Type Findings
Media Program(s) Public Water Supply Government/Non-Profit No
Multi-Media Enf. Coordinator Jacquelyn Green
EC's Team Enforcement Team

Admin. Penalty \$ Limit Minimum \$50 Maximum \$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$1,050

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 15.0% Enhancement Subtotals 2, 3, & 7 \$157

Notes Enhancement for three NOV's with same/similar violations.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0

Economic Benefit 0.0% Enhancement Subtotal 6 \$0

Total EB Amounts \$209
Approx. Cost of Compliance \$285
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$1,207

OTHER FACTORS AS JUSTICE MAY REQUIRE 17.0% Adjustment \$205

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided cost associated with the violation.

Final Penalty Amount \$1,412

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$1,412

DEFERRAL 0.0% Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$1,412

Screening Date 13-May-2013

Docket No. 2013-0978-PWS-E

PCW

Respondent Sunny Flea Market, Inc.

Policy Revision 3 (September 2011)

Case ID No. 46889

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102321312

Media [Statute] Public Water Supply

Enf. Coordinator Jacquelyn Green

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 15%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for three NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 15%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 15%

Screening Date 13-May-2013

Docket No. 2013-0978-PWS-E

PCW

Respondent Sunny Flea Market, Inc.

Policy Revision 3 (September 2011)

Case ID No. 46889

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102321312

Media [Statute] Public Water Supply

Enf. Coordinator Jacquelyn Green

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of September 2011, October 2011, November 2011, January 2012, June 2012, September 2012, and November 2012; and failed to timely provide public notice of the failure to sample for the months of September and November 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to perform routine coliform monitoring and provide public notification could result in persons served by the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 7

212 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,050

Seven monthly events are recommended, based on one event for each month the required samples were not collected.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,050

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$209

Violation Final Penalty Total \$1,413

This violation Final Assessed Penalty (adjusted for limits) \$1,413

Economic Benefit Worksheet

Respondent Sunny Flea Market, Inc.

Case ID No. 46889

Reg. Ent. Reference No. RN102321312

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	4-Mar-2013	12-Dec-2013	0.78	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to implement procedures to update the Facility's operational guidance to ensure all necessary public notification are provided in a timely manner. Date required is the record review date and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$175	1-Sep-2011	30-Nov-2012	2.17	\$19	\$175	\$194
Other (as needed)	\$10	1-Oct-2012	31-Mar-2013	1.41	\$1	\$10	\$11

Notes for AVOIDED costs

The estimated avoided costs to collect a total of seven routine coliform samples (\$25 x 7 samples) and provide public notification (\$5 x 2 notifications) of the failure to sample, calculated for the months sampling was not conducted and the period when public notification should have been provided.

Approx. Cost of Compliance

\$285

TOTAL

\$209



Compliance History Report

PUBLISHED Compliance History Report for CN603374133, RN102321312, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603374133, Sunny Flea Market, Inc. **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN102321312, SUNNY FLEA MARKET **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 8705 AIRLINE DRIVE, HOUSTON, HARRIS COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1012700

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: May 16, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 16, 2008 to May 16, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jacquelyn Green

Phone (512) 239-2587

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	09/19/2012 (1075529)	CN603374133
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)	
	Description:	TCR Routine MR Violation 06/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.	
2	Date:	12/06/2012 (1075529)	CN603374133
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)	
	Description:	TCR Routine MR Violation 09/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.	
3	Date:	01/29/2013 (1075529)	CN603374133
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)	
	Description:	SEPT/2012 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 09/2012	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)	
	Description:	TCR Routine MR Violation 11/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.	

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Published Compliance History Report for CN603374133, RN102321312, Rating Year 2012 which includes Compliance History (CH) components from May 16, 2008, through May 16, 2013.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 06/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.

7 Date: 12/06/2012 (1075529) CN603374133

For Informational Purposes Only

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 09/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.

8 Date: 01/29/2013 (1075529) CN603374133

For Informational Purposes Only

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: SEPT/2012 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 09/2012

For Informational Purposes Only

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 11/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.

* NOVs applicable for the Compliance History rating period 9/1/2007 to 8/31/2012

Appendix B

All Investigations Conducted During Component Period May 16, 2008 and May 16, 2013

For Informational Purposes Only

Item 1 March 21, 2013 (1075529)

For Informational Purposes Only

Item 2 March 28, 2013 (1075853)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2007 and 08/31/2012.

Published Compliance History Report for CN603374133, RN102321312, Rating Year 2012 which includes Compliance History (CH) components from May 16, 2008, through May 16, 2013.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SUNNY FLEA MARKET, INC.
RN102321312**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-0978-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Sunny Flea Market, Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a market with a public water supply located at 8705 Airline Drive in Houston, Harris County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on March 4, 2013, TCEQ staff documented that the Respondent failed to collect routine distribution water samples for coliform analysis for the months of February 2011, August 2011, September 2011, October 2011, November 2011, January 2012, June 2012, September 2012, and November 2012; and failed to provide public notice of the failure to sample for the months of September and November 2012.
3. The Respondent received notice of the violations on April 6, 2012.
4. The Executive Director recognizes that by May 1, 2013, the Respondent submitted the public notice of the failure to collect routine distribution water samples for coliform analysis for the month of November 2012.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notice of the failure to sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Two Thousand Forty-One Dollars (\$2,041) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Two Thousand Forty-One Dollar (\$2,041) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Forty-One Dollars (\$2,041) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However,

the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Sunny Flea Market, Inc., Docket No. 2013-0978-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.c, to demonstrate compliance with Ordering Provision No. 2.a.i.
 - c. Within 225 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission,

including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

11/18/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Sunny Flea Market, Inc. I am authorized to agree to the attached Agreed Order on behalf of Sunny Flea Market, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Sunny Flea Market, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

7/23/2013
Date

JACKRIN LEEBURAJIN
Name (Printed or typed)
Authorized Representative of
Sunny Flea Market, Inc.

PRESIDENT.
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order